IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6176 OF 2006

Haarinath R. Pandey & Ors.... ....Petitioners.
V/s
Bharatiya Gyan Vardhini Sabha & Anr..... ....Respondents.

Mr.P.S.Dani, Adv. for the petitioners.

Mr.B.P.Pandey, Adv. for the respondents.

CORAM: A.P.DESHPANDE, J.
31/7/07

PC:

Rule. Rule made returnable forthwith.

Taken up for hearing by consent of both the parties.

The petitioners claim to be the trustees of the respondent No.1-Trust. The order under challenge in this writ petition is passed by the Deputy Charity Commissioner approving grant of membership to 32 persons pursuant to resolution passed in the meeting held on 18.8.05. The main grievance of the petitioners is that the impugn;ed order has been passed in violation of principles of natural justice in as much as no one was granted hearing before allowing the application moved by the President of respondent No.1-Trust. It is tried to be demonstrated that the President of respondent No.1 was aware that the present petitioners would be interested in opposing the application seeking admission of 32 members and hence after passing of the impugned order by Deputy Charity Commissioner a caveat was filed in the High Court and the same was served on the present petitioners. It is undisputed that without holding any inquiry by an ex-parte order application for grant or

approval to the membership of 32 members of the trust has been passed. It has come on record that the election of the Managing Committee of respondent No.1-Trust is scheduled to be held on 2.8.07 and thus the learned counsel for the respondent submits that at this stage the Court ought not to interfere with the process of election. However he suggests that an inquiry into the correctness of granting membership to said 32 persons could be gone into in change proceedings to be initiated under section 22 of the Bombay Public Trusts Act in pursuance of the filing of change report after election is held. Both the learned counsel are in agreement that the impugned order dated 25.10.05 be not granted finality and the issue of validity of membership of 32 persons shall be left open to be decided by the Deputy Charity Commissioner in the inquiry proceedings under section 22 of the Bombay Public Trusts Act. I deem it appropriate to adopt the course of action as suggested jointly by learned counsel as the said course would ensure an adjudication in regard to legality and validity of grant of membership to 32 persons. In the result I declare that the order dated 25.10.05 impugned in this petition shall not be final and conclusive where under the Deputy Charity Commissioner has approved the admission of 32 persons in the Trust.

2. The legality and validity of the admission of 32 persons approved by the impugned order shall be the subject matter of inquiry to be conducted by the Deputy/Assistant/Joint Charity Commissioner in the change report to be filed after holding of election on 2.8.07. In the result rule is made absolute. Writ petition stands disposed of in above terms. Authenticated copy of order be issued.

31.7.07